

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALEX JEROME WELSH,

Case No. 3:23-cv-00359-MMD-CSD

Plaintiff,

ORDER

v.

CHADWICK UNDIS, et al.,

Defendants.

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on December 19, 2023. (ECF No. 6). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 6, 13). The parties did not settle at mediation. (ECF No. 17).

After mediation, Plaintiff filed a motion for reconsideration for appointment of counsel. (ECF No. 19). In the motion, Plaintiff argues that he needs counsel because his case is complex and he will need help with discovery, investigations, and interviewing witnesses that are 400 miles away from him. (*Id.*)

A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity

1 of the legal issues involved.” *Id.* “Neither of these considerations is dispositive and
2 instead must be viewed together.” *Id.*

3 In the instant case, the Court does not find exceptional circumstances that warrant
4 the appointment of counsel because Plaintiff articulates circumstances common to most
5 inmates. *See Baker v. Macomber*, No. 2:15-CV-00248-TLN-AC, 2020 WL 1182495, at *1
6 (E.D. Cal. Mar. 12, 2020) (finding that “[c]ircumstances common to most prisoners, such
7 as lack of legal education and limited law library access, do not establish exceptional
8 circumstances that warrant a request for voluntary assistance of counsel”). Additionally,
9 Plaintiff has not yet demonstrated that the claims in his case, including excessive force,
10 retaliation, and equal protection are legally complex at this stage of the litigation. The
11 Court denies the motion for reconsideration for appointment of counsel without prejudice.

12 Plaintiff also files a motion for affidavit in support of his documents. (ECF No. 20).
13 Although unclear, it seems that Plaintiff wants the Court to notarize his document for him.
14 (*Id.*) The Court denies the motion (ECF No. 20) because the Court is not responsible for
15 notarizing documents for Plaintiff.

16 For the foregoing reasons, **IT IS ORDERED** that:

17 1. Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1) is
18 **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In
19 the event that this action is dismissed, the full filing fee must still be paid pursuant to 28
20 U.S.C. § 1915(b)(2).

21 2. The movant herein is permitted to maintain this action to conclusion without
22 the necessity of prepayment of any additional fees or costs or the giving of security
23 therefor.

24 3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform
25 Act, the Nevada Department of Corrections will forward payments from the account of
26 **Alex Jerome Welsh, #1198863** to the Clerk of the United States District Court, District
27 of Nevada, 20% of the preceding month’s deposits (in months that the account exceeds
28 \$10.00) until the full \$350 filing fee has been paid for this action. The Clerk of the Court

1 will send a copy of this order to the Finance Division of the Clerk's Office. The Clerk will
2 send a copy of this order to the attention of **Chief of Inmate Services for the Nevada**
3 **Department of Corrections** at formapauperis@doc.nv.gov.

4 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
5 a copy of Plaintiff's complaint (ECF No. 7) on the Office of the Attorney General of the
6 State of Nevada by adding the Attorney General of the State of Nevada to the docket
7 sheet. This does not indicate acceptance of service.

8 5. Service must be perfected within ninety (90) days from the date of this order
9 pursuant to Fed. R. Civ. P. 4(m).

10 6. Subject to the findings of the screening order (ECF No. 6), within twenty-
11 one (21) days of the date of entry of this order, the Attorney General's Office shall file a
12 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it
13 accepts service; (b) the names of the defendants for whom it does not accept service,
14 and (c) the names of the defendants for whom it is filing the last-known-address
15 information under seal. As to any of the named defendants for whom the Attorney
16 General's Office cannot accept service, the Office shall file, under seal, but shall not serve
17 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such
18 information. If the last known address of the defendant(s) is a post office box, the Attorney
19 General's Office shall attempt to obtain and provide the last known physical address(es).

20 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
21 shall file a motion identifying the unserved defendant(s), requesting issuance of a
22 summons, and specifying a full name and address for the defendant(s). For the
23 defendant(s) as to which the Attorney General has not provided last-known-address
24 information, Plaintiff shall provide the full name and address for the defendant(s).

25 8. If the Attorney General accepts service of process for any named
26 defendant(s), such defendant(s) shall file and serve an answer or other response to the
27 complaint (ECF No. 7) within sixty (60) days from the date of this order.
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